



## INTERIOR BOARD OF INDIAN APPEALS

Joe Samione v. Acting Northwest Regional Director, Bureau of Indian Affairs

43 IBIA 116 (06/15/2006)



## United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS  
INTERIOR BOARD OF INDIAN APPEALS  
801 NORTH QUINCY STREET  
SUITE 300  
ARLINGTON, VA 22203

JOE SAMIONE,	:	Order Docketing and Dismissing
Appellant,	:	Appeal and Referring Matter
	:	to the Regional Director
v.	:	
	:	
ACTING NORTHWEST REGIONAL	:	Docket No. IBIA 06-69-A
DIRECTOR, BUREAU OF	:	
INDIAN AFFAIRS,	:	
Appellee.	:	June 15, 2006

On June 5, 2006, the Board of Indian Appeals (Board) received a letter from Joe Samione (Appellant), pro se, concerning the rental rate or other payments due for a homesite lease for Lot 4 of Block 7 of the Hermosa Point Summer Homesites (the Property) in Washington State. The Board treats Appellant's letter as a notice of appeal, but dismisses this appeal without prejudice as premature.

Appellant enclosed with his appeal a copy of a May 23, 2006 decision of the Acting Northwest Regional Director, Bureau of Indian Affairs (Regional Director; BIA). In that decision, the Regional Director vacated an April 12, 2006 rental rate adjustment decision by the BIA Puget Sound Superintendent, which Appellant had appealed to the Regional Director. The Regional Director found that the Superintendent had erred in sending a rate "adjustment" notice to Appellant because his lease (No. 8086) for the Property had expired in 2004. <sup>1/</sup> The Regional Director informed Appellant that Appellant needed to negotiate a new lease and that the Regional Director had instructed the Superintendent to contact Appellant regarding a new lease. The Regional Director remanded the matter to the Superintendent.

Appellant also enclosed with his notice of appeal a copy of a May 12, 2006 letter from the Superintendent to him, setting a rental rate for a new homesite lease for the

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<sup>1/</sup> The Regional Director's decision states that he had discussed the matter with the Superintendent, and the Superintendent acknowledged that the rental rate adjustment notice had been sent in error.

Property, and asking him to contact the Agency office to discuss the desired length of a new lease.

In his notice of appeal, Appellant describes what he characterizes as problems he has with obtaining a new lease for the Property, and objects to getting “different, conflicting messages” from BIA concerning the lease. Among other things, Appellant objects to the rental rate set for a new lease.

Based on the contentions contained in the notice of appeal, it appears that Appellant is not seeking to appeal from the Regional Director’s May 23, 2006 decision, which granted Appellant relief by vacating the Superintendent’s April 12, 2006 decision. Instead, it appears that Appellant may be seeking to appeal from the Superintendent’s May 12, 2006 letter notifying him of the rental rate for a new lease for the Property. 2/

We conclude that this appeal is premature. The Board does not have jurisdiction over 25 C.F.R. Part 2 appeals from administrative actions by a BIA Superintendent. Hardy v. Acting Midwest Regional Director, 42 IBIA 255, 256 (2006). Instead, such appeals must first be pursued with the Regional Director.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, the Board docketed this appeal, but dismisses it without prejudice as premature. The Board refers the matter to the Regional Director for consideration. 3/

I concur:

// original signed  
Steven K. Linscheid  
Chief Administrative Judge

// original signed  
Amy B. Sosin  
Acting Administrative Judge

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2/ The Board notes that the Superintendent’s May 12, 2006 letter did not advise Appellant of appeal rights pursuant to 25 C.F.R. § 2.7.

3/ The Board expresses no view on whether Appellant has standing with respect to any claims he may wish to assert in an appeal.